

SIKKIM



GOVERNMENT

GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Thursday 25th April, 2024

No. 181

**GOVERNMENT OF SIKKIM
HOME DEPARTMENT
GANGTOK**

No. 35/Home/2024

Dated: 22/04/2024

NOTIFICATION

In compliance with the instructions to implement the scheme to provide financial support to poor prisoners to pay and secure bail received vide D.O. letter No. 17013/26/2023-PR dated 19th June, 2023 of Ministry of Home Affairs, Government of India and with the concurrence of the Hon'ble High Court of Sikkim, the State Government is hereby pleased to constitute the following Committees;

1. The Composition of the State Level 'Oversight Committee' shall be as under:-

Sl. No	Designation	Designation
1.	Additional Chief Secretary, Home Department	Chairman
2.	Registrar General, High Court of Sikkim	Member
3.	LR cum Secretary, Law Department	Member
4.	Member Secretary, Sikkim State Legal Services Authority	Member
5.	Deputy Inspector General of Police, State Central Prison, Rongyek	Member

2. The Composition of the District Level 'Empowered Committee' shall be as under:-

Sl. No	Designation	Designation
1.	District Collector/ District Magistrate of the concerned district	Chairman
2.	Chief Judicial Magistrate of the concerned district	Member
3.	Secretary, District Legal Services Authority of the concerned district	Member
4.	Deputy Inspector General of Police, State Central Prison, Rongyek	Member
5.	Senior Superintendent of Police of the concerned district	Member

The Terms of Reference of the Committees shall be as under:-

1. Funds to the States for implementation of the scheme will be provided through the Central Nodal Agency (CNA). The National Crime Record Bureau has been designated as the Central Nodal Agency for the scheme.
2. The Deputy Inspector General of Police, State Central Prison, Rongyek has been designated as a Nodal Officer for implementation of the scheme responsible for coordinating/ claiming the funds from the CNA Account and the State Central Prison, Rongyek has been designated as Implementing Agency/Sub-Agency.
3. The Sub Agency/Implementing Agency shall draw the requisite amount from the CNA on a case to case basis and reimburse the same to the concerned competent authority for providing relief to the prisoner.
4. The Empowered Committee will assess the requirement of financial support in each case for securing bail or for payment of fine, etc., and based on the decision taken, the nodal officer will draw money from the CNA Account and take necessary action.
5. The Empowered Committee may appoint a Nodal Officer and take assistance of any civil society representative/social worker/ District Probation Officer to assist them in processing cases of needy prisoners.
6. The Empowered Committee and Oversight Committee shall operate as per Standard Operating Procedure as prescribed under:

STANDARD OPERATING PROCEDURE

A. FOR UNDER TRIAL PRISONERES:

- i. If the undertrial prisoner is not released from the jail within a period of 7 days of order of grant of bail, then the jail authority shall inform the Secretary, District Legal Services Authority;
- ii. Secretary, District Legal Services Authority would inquire and examine whether the undertrial prisoner is not in a position to furnish financial surety for securing bail in terms of the bail condition. For this, District Legal Services Authority may take the assistance of Civil Society representative, social workers/ NGOs, District Probation Officers or revenue officers. This exercise would be completed in a time bound manner within a period of 10 days.
- iii. Secretary, District Legal Services Authority will place all such cases before the District Level Empowered Committee every 2-3 weeks.
- iv. After examination of such cases, if the Empowered Committee recommends that the identified poor prisoners be extended the benefit of financial benefit under 'Support to Poor prisoners Scheme', then the requisite amount upto Rs. 40,000/- per case for one prisoner, can be drawn and made available to the Hon'ble Court by way of Fixed Deposit or any other method, which the District Committee feels appropriate.

- v. This benefit will not be available to persons who are accused of offences under Prevention of Corruption Act, 1988; Prevention of Money Laundering Act, 2002, Narcotics and Psychotropic Substances Act, or Unlawful Activities Prevention Act or any other Act or provisions, as may be specified later.
- vi. if the prisoner is acquitted/convicted, then appropriate orders may be passed by the trial court so that the money comes back to the Government's account as this is only for the purpose of securing bail unless the accused is entitled to the benefit of bail u/s 389(3) Cr.PC. in which event the amount can be utilized for bail by Trial Court to enable the accused to approach the Appellate Court and if the Appellate Courts grants bail u/s 389(1) of Cr.PC.
- vii. the bail amount is higher than Rs. 40,000/-, Secretary, DLSA may exercise his discretion to pay such amount and make a recommendation to the Empowered Committee. Secretary, DLSA may also engage with legal aid advocate with a plea to have the surety amount reduced. For any amount over and above Rs. 40,000/-, the proposal may be approved by the State Level Oversight Committee.

B. CONVICTED PRISONERS:

- i. if a convicted person is unable to get released from the jail on account of non-payment of fine amount, the Jail authority would immediately inform the Secretary, DLSA within 7 days.
- ii. Secretary, DLSA would enquire into the financial condition of the prisoner with the help of District Social Worker, NGOs, District Probation Officer, Revenue Officer who would be mandated to cooperate with the Secretary, DLSA within 7 days.
- iii. The Empowered Committee will sanction and release the fine amount upto Rs. 25,000/- to be deposited in the Court for securing the release of the prisoner. For any amount over and above Rs. 25,000/-, the proposal may be approved by the State Level Oversight Committee.

By order and in the name of the Governor,

R. TELANG, IAS
Additional Chief Secretary
Home Department
File No. Home/Confdl/138/2019